

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	:	William P. Spencer, et al.
Appl. No.	:	10/805,386
Filed	:	March 22, 2004
Title	:	ESTERIFIED FATTY ACID COMPOSITION
Examiner	:	D. Carr
Group Art Unit	:	1621
Conf. No.	:	1731

DECLARATION OF WILLIAM P. SPENCER  
SUBMITTED UNDER 37 C.F.R. § 1.132

I, William P. Spencer, declare as follows:

1. I am the inventor of the above-captioned patent application. In addition, I am the Chief Executive Officer of Imagenetix, Inc., the assignee of the above-captioned patent application.

2. I have read and understood the specification of the above-captioned patent application, the currently pending claims as submitted to the U.S. Patent and Trademark Office (PTO) on January 8, 2008, and the most recent Office Action, mailed by the PTO on April 4, 2008.

3. It is common knowledge that clinical trials to obtain data for approval of drugs by the U.S. Food and Drug Administration (FDA) are extremely expensive. Larger pharmaceutical companies fund these clinical trials in-house. Smaller companies, such as Imagenetix, Inc., must rely on outside sources of funding, such as investors in the company, to fund their clinical trials.

4. Investors typically conduct a due diligence study of the company prior to their investment commitment, during which they analyze and evaluate the data for a particular project to determine the chances of success for the particular project. Investors commit their funds only after they have determined that the project has a reasonable chance of clearing FDA hurdles and be successful in the marketplace.

5. Imagenetix has undertaken pre-clinical studies of cetylated fatty acids in the treatment of periodontal disease. The above-captioned patent application was filed to protect the product(s) emerging from this program. The pre-clinical studies were mainly funded in-house.

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6. Imagenetix is now poised to conduct full-scale clinical trials for the treatment of periodontal disease using the methods claimed in the above-captioned patent application. To fund these clinical trials, Imagenetix requires outside funding from investors.


7. Several potential investors have analyzed Imagenetix's data. They have come to the conclusion that the treatment methods encompassed by the methods claimed in the above-captioned patent application are commercially significant, are more superior to anything else that is currently available in the market or is in the pipeline of other pharmaceutical companies, and will likely be approved by the FDA. These investors have provided written commitments to Imagenetix to provide funding for the clinical trials once claims covering the treatment methods are found allowable by the U.S. Patent and Trademark Office.

8. Imagenetix has had a history of discussing various projects with potential investors. It is my opinion that investors do not make an investment commitment unless they are convinced that the ensuing product is substantially more superior to any potentially competing product. Otherwise, the investors would not realize their intended return on their investment.

9. Imagenetix's success in obtaining investment commitment is not due to any marketing efforts on the part of Imagenetix. Instead, our committed investors reached their decision after their thorough analysis of the pre-clinical data showing successful treatment of periodontal disease using the claimed methods.

10. I declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful, false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful, false statements may jeopardize the validity of the application or patent issuing therefrom.

Dated: 12/1/08

By:   
William P. Spencer